IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SEVENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE M.H.S. ANSARI

and
THE HON'BLE MR JUSTICE T.CH.SURYA RAO

WRIT PETITION NO : 4160 of 2005

Between:

M/s. Jayalakshmi Industries, Mallepally, Hyderabad

rep by Proprietor, Mr. B. Chindanandudu

..... PETITIONER

AND

1 The Commercial tax Officer, Agapura Circle, Hyderabad
2 The Deputy Commissioner (CT) Abids Division, Hyderabad
3 The Additional Commissioner (CT) legal, Andhra Pradesh, Nampally,

Hyderabad

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Certiorari or any other appropriate Writ or order or direction quashing the order of the 3rd Respondent in CCT's Ref. No. L.III (1)/1575/2004 dated 16-2-2005 refusing to order stay of collection of disputed tax levied by the 2nd Respondent for the assessment year 2000-01 under the APGST Act as illegal, arbitrary and unjustified and consequently restrain the 1st Respondent for the taking any coercive steps for collection of the balance disputed tax of Rs.7,65,787/- pending disposal of the appeal in T.A. 140 of 2005 before the Sales Tax Appellate Tribunal and pass such other order or orders as the Hon'ble Court may deem fit and proper in the circumstances of the case

Counsel for the Petitioner: MR.S.DWARAKANATH

Counsel for the Respondents: GP FOR COMMERCIAL TAX

The Court at the stage of admission made the following :

ORAL ORDER: (Per Sri TCSR.J)

The instant writ petition is directed against the order dated 16.2.2005 passed by the learned Additional Commissioner (CT) Legal whereunder and whereby the request of the petitioner for stay of the collection of the disputed tax pending adjudication of the appeal by the Sales Tax Appellate Tribunal was rejected.

A perusal of the record shows that the dispute is with respect to the racks. It is the case of the petitioner that it had been preparing the racks under works contracts. The stand taken by the department appears to be that it is a case of sale. The petitioner was initially assessed on the basis of works contract but the final assessment order was revised by the 2nd respondent, Deputy Commissioner. Having been aggrieved by the said revision, the petitioner carried the matters in appeal before the Sales Tax Appellate Tribunal, as aforesaid. Notwithstanding that fact, we are not inclined to dispose of the matter on merits inasmuch as the appeals preferred by the petitioner before the Sales Tax Appellate Tribunal are now pending adjudication before the Tribunal. Since the present writ petition is directed against the order rejecting the request for stay, we are inclined to dispose of the writ petition by directing the petitioner to deposit 50% of the disputed tax excluding the deposit, made if any while preferring the appeal.

In the result, the writ petition is allowed thereby staying the collection of the disputed tax on the condition of the petitioner depositing 50% of the disputed tax excluding the deposit already made, if any, on or before 31.3.2005. On such deposit being made by the petitioner, the learned Tribunal shall dispose of the appeals pending before it by passing appropriate orders in accordance with law as expeditiously as

possible.

The writ petition is accordingly disposed of. In the circumstances, no order as to costs.

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07….03….2005

To

1 The Commercial tax Officer, Agapura Circle, Hyderabad
2 The Deputy Commissioner (CT) Abids Division, Hyderabad
3 The Additional Commissioner (CT) legal, Andhra Pradesh, Nampally,

Hyderabad

4 2 CCs to GP for Commercial Taxes, High Court of A.P.

Hyderabad(OUT)

5 2 CD copies.